

STATE OF INDIANA)
) SS:
COUNTY OF HAMILTON)

IN THE HAMILTON CIRCUIT COURT
CAUSE NO. 29C01-0311-PL-1365

STATE OF INDIANA,)
)
Plaintiff,)
)
v.)
)
TERRY CHOATE,)
individually and doing business as)
ALL CITY METAL CRAFT, INC., and)
ALL CITY METAL CRAFT, INC.)
)
Defendants.)

FILED

APR 08 2004

[Signature]
CLERK OF THE
HAMILTON CIRCUIT COURT

DEFAULT JUDGMENT

The plaintiff, State of Indiana, has filed its Motion for Default Judgment. The Court has read the same and, being duly advised in the premises, now finds the following:

1. The Court has subject matter jurisdiction and personal jurisdiction over the Defendant.
2. The Defendants, Terry Choate and All City Metal Craft, Inc., were served with notice of these proceedings by publication in *The Noblesville Ledger*, a newspaper authorized by law to publish notices in Fishers, Hamilton County, Indiana.
3. The Defendants have failed to appear, plead, or otherwise respond to the Complaint.
4. The Defendant, Teny Choate, is not an infant, incompetent, or in military service.

THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that the Motion for Default Judgment is **GRANTED** in favor of the Plaintiff, State of Indiana, and against the Defendants, Teny Choate, individually and doing business as All City Metal Craft, Inc. and All

City Metal Craft, Inc., and that the Defendants, their agents, representatives, employees, successors and assigns are permanently enjoined **from** engaging in the following conduct in violation of Ind. Code § 24-5-11-1, *et seq.* and Ind. Code § 24-5-0.5-1, *et seq.*:

1. In the course of entering into home improvement transactions, failing to provide to the consumer a completed home improvement contract which includes at a minimum the following:

- (A) The name of the consumer and the **address** of the **residential** property that is the subject of the home improvement;
- (B) The name and address of the home improvement supplier and each of the telephone numbers and names of any agent to whom consumer problems and inquiries can be directed;
- (C) The date the home improvement contract was submitted to the consumer and any time limitation on the consumer's acceptance of the home improvement contract;
- (D) A reasonably detailed description of the proposed home improvements;
- (E) If the description required by Ind. Code § 24-5-11-10(a)(4) does not include the specifications for the home improvement, a statement that the specifications will be provided to the consumer before commencing any work and that the home improvement contract is subject to the consumer's separate written and dated approval of the specifications;
- (F) The approximate starting and completion date of the home improvements;
- (G) A statement of any contingencies that would materially change the approximate completion date;
- (H) The home improvement contract price; and
- (I) Signature lines for the home improvement supplier or the supplier's agent and for each consumer who is to be a party to the home improvement contract with a legible printed or typed version of that person's name placed directly **after** or below the signature;

2. In the course of entering into home improvement transactions, failing to agree unequivocally by written signature to all of the terms of a home improvement contract before the consumer signs the home improvement contract and before the consumer can be required to make any down payment;

3. In the course of entering into home improvement transactions, failing to provide a completed home improvement contract to the consumer before it is signed by the consumer;

4. Representing, expressly or by implication, that the Defendants are able to start or complete a home improvement within a stated period of time, or when no time period is stated, within a reasonable time, when the Defendants know or should reasonably know they cannot;

5. Representing, expressly or by implication, that the subject of a consumer transaction has sponsorship, approval, performance, characteristics, accessories, uses, or benefits it does not have, which the Defendants know or should reasonably know that they do not have

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that judgment is granted in favor of the Plaintiff, State of Indiana, and against the Defendants, Terry Choate, individually and doing business as All City Metal **Craft**, Inc. and All City Metal Craft, Inc., as follows:

a. The **contract** previously entered into by the Defendants with Charles **Simpson** is cancelled pursuant to Ind. Code § 24-5-0.5-4(d).

b. The Defendants shall pay consumer restitution pursuant to Ind. Code § 24-5-0.5-4(c)(2), for Charles **Simpson** in the amount of Two Thousand Five Hundred Dollars (\$2,500.00), payable to the Office of the Attorney General;

c. The Defendants shall pay the Office of the Attorney General its costs of investigating and prosecuting this action, pursuant to Ind. Code § 24-5-0.5-4(c)(3), in the amount of Three Hundred Twenty-Nine Dollars and Eighty-Four Cents (\$329.84);

d. On Count III of the Plaintiffs Complaint, the Defendant shall pay civil penalties pursuant to Ind. Code §24-5-0.5-4(g) for the Defendant's knowing violations of the Deceptive Consumer Sales Act, in the amount of Five Hundred Dollars (\$500.00) per violation, for a total of **One** Thousand Dollars (\$1,000.00) payable to the State of Indiana; and

e. On Count III of the Plaintiffs Complaint, the Defendant shall pay civil penalties pursuant to Ind. Code §24-5-0.5-8 for the Defendant's intentional violations of the Deceptive Consumer Sales Act, in the amount of Five Hundred Dollars (\$500.00) per violation, for a total of One Thousand Dollars (\$1,000.00) payable to the State of Indiana.

For a total monetary judgment in the amount of Four Thousand Eight Hundred and Twenty-Nine Dollars and Eighty-Four Cents (\$4,829.84) in favor of the Plaintiff, State of Indiana, and against the Defendants, Terry Choate, individually and doing business as All City Metal Craft, Inc. and All City Metal Craft, Inc.

April ALL ORDERED, ADJUDGED AND DECREED on this 8 day of April, 2004.

Judith L. Proffitt
Judge, Hamilton County Circuit Court

DISTRIBUTION:

**Terry Tolliver
Office of the Attorney General
Indiana Government Center South
302 West Washington Street, Fifth Floor
Indianapolis, Indiana 46204**

**Terry Choate
1246 Deloss Street
Indianapolis, IN 46203**